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FILED

OCT - 1 2018 ^{WB}

THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT

**MOTION UNDER 28 U.S.C. SECTION 2255
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

MOTION TO VACATE, SET ASIDE, OR CORRECT SENTENCE BY A
PERSON IN FEDERAL CUSTODY

United States of America

v.

Robert DeKelaita

(Full name and prison number of movant)

1:18-cv-06682

Judge Matthew F. Kennelly

Magistrate Judge Maria Valdez
(14cr497-1)

**IF THE MOVANT HAS A SENTENCE TO BE SERVED IN THE FUTURE UNDER
A FEDERAL JUDGMENT WHICH HE WISHES TO ATTACK, HE SHOULD
FILE A MOTION IN THE FEDERAL COURT WHICH ENTERED THE
JUDGMENT.**

1. Place of detention, or if on parole, date of parole release

FCI Terre Haute, IN February 24, 2019

2. Name and location of court which sentence was imposed and name of judge who imposed the sentence which is now under attack.

U.S. District Court for the Northern District of Illinois

The Honorable Judge Matthew F. Kennelly

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3. Date of judgment of conviction:
March 24, 2017
4. Case number: 14 CR 497 1
5. Length of sentence: 15 months
6. Nature of offense involved (all counts): 1 count of conspiracy to commit
immigration fraud
7. What was your plea? (check one)
- (A) Not guilty ☒
- (B) Guilty ☐
- (C) Nolo Contendere ☐
8. Kind of trial: (check one)
- (A) Jury ☒
- (B) Judge only ☐
9. Did you testify at the trial?
Yes ☐ No ☒
10. Did you appeal from the judgment of conviction?
Yes ☒ No ☐
11. If you did appeal, answer the following:
- (A) Name of court 7th Circuit Court of Appeals
- (B) Result Denied
- (C) Date of result November 17, 2017
12. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any federal court?
Yes ☒ No ☐

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13. If your answer to (12) was "YES," give the following information:

- (A) (1) Name of court 7th Circuit Court of Appeals
- (2) Nature of proceeding Petition for Rehearing
- (3) Grounds raised Whether there was one overarching conspiracy or multiple conspiracies
- (4) Did you receive an evidentiary hearing on your petition, application or motion?
Yes ☐ No ☒
- (5) Result Denied
- (6) Date of result January 25, 2018

(B) As to any second petition, application or motion, give the same information:

- (1) Name of court _____
- (2) Nature of proceeding _____
- (3) Grounds raised _____
- (4) Did you receive an evidentiary hearing on your petition, application or motion?
Yes ☐ No ☐
- (5) Result _____
- (6) Date of result _____

(C) As to any third petition, application or motion, give the same information:

- (1) Name of court _____
- (2) Nature of proceeding _____
- (3) Grounds raised _____
- (4) Did you receive an evidentiary hearing on your petition, application or motion?
Yes ☐ No ☐
- (5) Result _____
- (6) Date of result _____

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(D) Did you appeal, to an appellate federal court having jurisdiction, the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes ☐ No ☒

(2) Second petition, etc. Yes ☐ No ☐

(3) Third petition, etc. Yes ☐ No ☐

(E) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

After the Appeal and the Petition for Rehearing were both denied,
I was incarcerated. This filing follows.

14. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

CAUTION: IF YOU FAIL TO SET FORTH ALL GROUNDS IN THIS MOTION, YOU MAY BE BARRED FROM PRESENTING ADDITIONAL GROUNDS AT A LATER DATE.

A. Ground one The Jury was not informed as to the rewarding of the witnesses
for testimony.

Supporting FACTS: (Tell your story briefly without citing cases or law.)
The witnesses all testified that they were not promised any immigration status
or assistance. The Prosecution, in all of its documents, claimed that witnesses

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were not promised any immigration benefit for their assistance in testifying.

The witnesses, however, having admitted that they filed frivolous asylum applications, were not, according to the law, to receive "any benefit." Yet, as time has shown, they were all allowed to keep their immigration status.

- B. Ground two CI Fadhil Rasho was never produced in court for cross-examination, yet the Prosecution used parts of his testimony.

Supporting FACTS: (Tell your story briefly without citing cases or law.)

see attached memo.

- C. Ground three Attorneys A&B were not disbarred or even reprimanded by the ARDC or EOIR, showing that they were not co-conspirators in this case.

Supporting FACTS: (Tell your story briefly without citing cases or law.)

see attached memo.

- D. Ground four

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Supporting FACTS: (Tell your story briefly without citing cases or law.)

15. If any of the grounds listed in 14 A, B, C, and D were not previously presented, state briefly what grounds were not so presented, and give your reasons for not presenting them:

16. Do you have any petition or appeal now pending in any court as to the judgment under attack? Yes ☐ No ☒

(A) If "YES," state the name of the court and the nature of the proceeding:

17. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(A) At preliminary hearing _____

(B) At arraignment and plea _____

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(C) At trial Michael Nash, William Murphy, Christina Abraham

(D) At sentencing Michael Nash, William Murphy, Christina Abraham

(E) On appeal Michael Nash

(F) In any post-conviction proceeding Michael Nash

(G) On appeal from any adverse ruling in a post-conviction proceeding Michael Nash

18. Were you sentenced on more than one count of an indictment, or more than one indictment, in the same court and at approximately the same time? Yes ☐ No ☒

19. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack? Yes ☐ No ☒

(A) If so, give the name and location of the court which imposed the sentence to be served in the future: _____


(B) And give the date and length of sentence to be served in the future: _____

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WHEREFORE, movant prays that the Court grant him all relief to which he may be entitled in this proceeding.


Signature of attorney (if any)



Signature of Movant

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 9/24/2018
(date)



Signature of Movant

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Robert DeKelata
#47542424
FCI - Terre Haute
P.O. Box 33
Terre Haute, IN 47808

US DISTRICT COURT
CLERK
52:6 AM 1-1308102

Clerk of the US District Court
Northern District of Illinois
219 S. Dearborn Street
Chicago, IL 60604

510. Motion to Vacate



10/01/2018-45

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